

REQUEST FOR RECONSIDERATION

In accordance with 37 CFR 1.143, Applicants request reconsideration and withdrawal of the restriction requirement dated April 2, 2008. Applicants provisionally elect with traverse Group II (claims 12-21).

Applicants Traverse The Restriction Requirement

The sole basis for the restriction requirement is that “removal of the cash dispenser takes claims 1-11 and 22-27 out of the article dispensing art”. At best, the Examiner confuses distinctness with differences in claim scope.

First, claim 11 specifically recites a “cash dispenser”, which provides *prima facie* evidence that the Examiner’s reason for restriction is not legally valid.

Second, USPTO rules dictate that claims are classified by their narrowest limitations, not their broadest (which is what the Examiner attempts). Claim 11 depends on claim 1. Thus, classification of the (broader) claim 1 subject matter is based on the (narrower) subject matter of dependent claim 11. In other words, contrary to what the Examiner alleges, because “cash dispenser” remains in claim 11/1, claim 1 has not been taken out of the article dispensing art. This provides further evidence that the Examiner’s reason for restriction is not legally valid. Rather, the Examiner’s actions are legally improper and constitute clear error.

Third, the Examiner’s Amendment indicates that claims 28-32 were pending. However, the record shows that claims 28-32 were never pending. As best understood, the Examiner mistakenly confuses the present application with a different application that requires restriction. This provides more evidence that the reason for restriction is not proper.

The Examiner's actions are legally improper and constitute clear error

The Examiner has not provided Applicants an opportunity to traverse the requirement

The rules do not permit an Examiner to allege a need for restriction, then based on that alleged need cancel claims to the alleged non elected invention, and then close prosecution by allowing the application. An Applicant has a right to traverse any restriction requirement (37 CFR 1.143). The Examiner is committing clear error by attempting to deny Applicants that right.

The Examiner has not been granted authority by Applicants to cancel any claims

The Examiner's Amendment states that the claims 1-11 and 22-27 being "non-elected without traverse" have been canceled. However, the record shows that Applicants previously elected claims 1-2, 11-23, and 25-27 with traverse. Where does the record show that these claims were not elected by Applicants, especially without traverse? It doesn't. The Examiner's allegation that the claims were non-elected without traverse by Applicants is a clear error. The Examiner's attempt to cancel claims without the permission of Applicants is also a clear error.

Applicants reserve the right to petition

In accordance with 37 CFR 1.143, Applicants have (above) requested reconsideration and withdrawal of the restriction requirement. Applicants reserve the right to petition in accordance with 37 CFR 1.144, should the Examiner make the restriction requirement final in response to the (above) requested reconsideration and withdrawal.

Applicants request that the record be clarified and corrected

Page 1 of the Notice of Allowability indicates that the allowed claims are 12-20. However, page 4 states that claims 12-21 are allowed. Correction by the Examiner is required.

The Examiner's Amendment indicates that claims 28-32 were pending. However, the record shows that claims 28-32 were never pending. Correction by the Examiner is required.

Conclusion

The undersigned is willing to discuss any aspect of the Application at the Office's convenience.

Respectfully submitted,



Ralph E. Jocke Reg. No. 31,029
WALKER & JOCKE
231 South Broadway
Medina, Ohio 44256
(330) 721-0000